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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,236	03/11/2004	Abhay Sharma	U 015074-0	3561
7590 Ladas & Parry 26 West 61 Street New York, NY 10023			EXAMINER PERREIRA, MELISSA JEAN	
			ART UNIT 1618	PAPER NUMBER
			MAIL DATE 12/23/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/798,236

Applicant(s)

SHARMA, ABHAY

Examiner

MELISSA PERREIRA

Art Unit

1618

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 11-13.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Michael G. Hartley/
Supervisory Patent Examiner, Art Unit 1618

/Melissa Perreira/
Examiner, Art Unit 1618

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharma et al. (US 6,541,193B2) in view of Wolf et al. (J. Neuroscience 2002, 22, 11035-11044) and Faeldt et al. (US 2004/0076583A1) and further in view of Saba et al. (US 2003/0219782A1) as stated in the office action mailed 9/4/08.

Applicant asserts that the reference of Sharma et al. relates to drug induced behavior in mutant flies and not wild type flies whereas wild type flies excludes any mutant that is developed in a laboratory. The reference of Sharma et al. does disclose the use of mutant flies in the method of screening a neuroactive drug via chronic treatment of *Drosophila melanogaster* with neuroactive drugs and subsequently comparing the locomotor activities of a first group of flies fed with normal food and a second group of flies fed with food mixed with an agent. The reference of Faeldt et al. teaches of the method of screening a test agent (neuroactive drug) via monitoring locomotor activity, specifically horizontal and vertical movement of *Drosophila melanogaster* (i.e. wild type) (p7, [0075]). Therefore it would have been obvious to utilize wild type flies for the method of screening a neuroactive drug as both disclosures are drawn to such a method. Faeldt et al. was also used to teach that the population of flies may be contacted with the test agent once or many times, that the administration of the test agent may be acute or chronic (p19, [0249]) and that the flies administered the test agent may be examined at a plurality of times during the life of the fly (p20, [0256]). Therefore the flies may be returned to the media containing the test agent for a period of time and then fed media without the test agent for a period of time prior to monitoring locomotor activity.

Applicant asserts that Wolf et al. teaches of acute exposure to alcohol and not chronic exposure. Wolf et al. explicitly states that the flies are continuously exposed to ethanol vapor (p 11036, results). Wolf et al. was used to teach of the analysis of the locomotor activity of *Drosophila melanogaster* and that internal accumulation of ethanol (i.e. psychoactive drug) affecting nervous system function is indicative of neural plasticity. In combination with the reference of Faeldt et al. it would have been obvious that the examination of the locomotor activity of flies at a plurality of times during the chronic treatment with a test agent allows for the examination of the internal accumulation of a psychoactive/neuroactive drug for the detection of neural plasticity.

Applicant asserts that one skilled in the art would expect that effects from acute and chronic exposure would differ and a method for detecting acute effects could reasonably differ from a method for measuring chronic effects. Wolf et al. explicitly states that the flies are continuously exposed to ethanol vapor (p 11036, results). Wolf et al. teaches of the internal accumulation of ethanol due to the continuous exposure to ethanol vapors (p11035, paragraph 3; p11036, results) and the measure of neural plasticity while Faeldt et al. teaches of chronic exposure of the test agent at multiple times and thus teaches of the internal accumulation of the test agent. Therefore it would have been obvious to determine the neural plasticity of flies upon the internal accumulation of a test agent via chronic exposure.

Applicant asserts that measuring the detection of long term plasticity is lacking in Faeldt et al. and Faeldt et al. does not teach nor suggest treatment and then withdrawal of the drug. The reference of Faeldt et al. teaches of the method of screening a test agent (neuroactive drug) via monitoring locomotor activity, specifically horizontal and vertical movement of *Drosophila melanogaster* (i.e. wild type) (p7, [0075]). Faeldt et al. was also used to teach that the population of flies may be contacted with the test agent once or many times, that the administration of the test agent may be acute or chronic (p19, [0249]) and that the flies administered the test agent may be examined at a plurality of times during the life of the fly (p20, [0256]). Therefore the flies may be returned to the media containing the test agent for a period of time and/or fed media without the test agent for a period of time prior to monitoring locomotor activity.